



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PHILEMONE FILS-AMIE,

Petitioner,

-v-

BRIAN S. FISCHER, SUPERINTENDENT,

Respondent.
-----X

03 Civ. 939 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

On August 10, 2006, the Honorable Ronald L. Ellis, United States Magistrate Judge, issued a Report and Recommendation ("Report") in the above-captioned matter recommending that this petition for habeas corpus be denied.

After the Report issued, plaintiff submitted an objection dated September 5, 2006. Having considered the matter de novo in light of such objection, the Court finds itself in total agreement with the reasoning set forth in the Report, which the Court hereby adopts by reference and, for the reasons therein, dismisses petitioner's habeas petition with prejudice. In addition, because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue, see 28 U.S.C. § 2253, and the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith. Moreover, as petitioner's claim lacks any arguable basis in law or fact, permission to proceed in forma pauperis is also denied. 28

U.S.C. § 1915(g); see also Seimon v. Emigrant Savs. Bank (In re Seimon), 421 F.3d 167, 169 (2d Cir. 2005). Clerk to enter judgment.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
January 13, 2007